

REVISED UNIVERSITY OF VENDA
Disciplinary Code for Staff Members

Revised June 2013

Disciplinary Code for Staff Members

1. **PURPOSE OF THIS DISCIPLINARY CODE**

- 1.1 To ensure that all employees conduct themselves properly in the interests of workplace harmony, safety and effectiveness.
- 1.2 To guide employees and management as to the conduct expected and the appropriate corrective and/or punitive measures.
- 1.3 To set out procedures to be followed in instances of misconduct.

2. **SCOPE OF THIS DISCIPLINARY CODE**

- 2.1 The provisions of this Disciplinary Code are applicable to all persons employed by the University, either on a permanent or temporary basis, including those employed on the basis of fixed-term contracts.
- 2.2 Independent contractors are specifically excluded from the application of the provisions of this Disciplinary Code.
- 2.3 External members of Council are excluded from the application of this Disciplinary Code and the Code of Conduct for Council members will be applicable in their case.

3. **THE PURPOSE OF DISCIPLINE**

- 3.1 Any organisation, big or small, must have rules and regulations to enable it to carry out its activities in an orderly and meaningful way.
- 3.2 It is thus essential that all employees are aware of the behavioural norms and standards expected of them.

4. DISCIPLINE MUST BE APPLIED FAIRLY AND CONSISTENTLY

4.1 Action taken against employees in respect of misconduct or unsatisfactory performance will, whenever possible, be corrective in nature. Punitive action will, however, be taken when earlier steps have proved ineffectual or when a transgression is very serious.

4.2 The University will not victimize or unfairly discriminate against any employee for anything said or done in connection with the implementation of this Disciplinary Code.

5. PERIOD OF APPLICATION OF THIS DISCIPLINARY CODE

5.1 This version of the Disciplinary Code repeals all other versions of disciplinary codes in existence.

5.2 This Disciplinary Code shall become and remains operational from the date it is signed by the Secretary to Council and/ or the Vice Chancellor & Principal.

5.3 It may be revised from time to time as it becomes necessary to reflect the existent practice.

5.4 Each amendment shall also become operational on the date it is signed by the Secretary to Council and/or the Vice Chancellor & Principal.

5.5 Each revision of this Disciplinary Code shall replace all previous versions of this Disciplinary Code in full unless specifically mentioned otherwise.

6. DISCIPLINARY APPROACH

6.1 The responsibility for applying discipline and enforcing performance-related standards is reserved for individuals of the appropriate responsibility and

seniority within the University's management structures. Management shall ensure that no infringements are ignored. Discipline must be applied fairly and consistently.

- 6.2 Where an alleged infringement occurring within or outside the university premises results in criminal charges being laid against an employee, nothing shall prevent the University from taking appropriate disciplinary steps against the employee concerned and in particular, the University shall not be required to delay the taking of disciplinary steps until any criminal case against the employee has been concluded. The outcome of a court action will furthermore not affect the outcome of any internal disciplinary process and is dealt with as an entirely separate procedure.

7. **INVESTIGATION OF ALLEGED MISCONDUCT**

- 7.1 All reported misconduct may first be investigated to gather all the relevant facts and determine what appropriate action should be taken.
- 7.2 Not all investigations need to be formal investigations.
- 7.3 Misconduct does not include normal operational performance or capability meetings between employees and their Supervisors and is restricted to incidents of misconduct only.
- 7.4 If a serious allegation is made or the alleged misconduct is of a serious nature, the Supervisor in consultation with Human Resources and/or the Vice Chancellor and Principal may appoint a person to:
- 7.4.1 investigate the matter fully;
 - 7.4.2 obtain and gather all relevant and available evidence;
 - 7.4.3 determine whether there are sufficient grounds to charge an employee with misconduct; and
 - 7.4.4 report the findings to the Supervisor.

- 7.5 Any employee that is under investigation is obliged to co-operate with the investigator. If the employee refuses to co-operate, her/his Supervisor will instruct them to co-operate. Should she/he still refuse to co-operate she/he may be charged with insubordination.
- 7.6 The Vice Chancellor and Principal or his/her delegated Executive Manager shall determine the seriousness of the allegations and take the final decision to initiate disciplinary action.
- 7.7 The final decision to initiate disciplinary action against the Vice Chancellor and Principal rests with the University Council and it is not obliged to follow the steps in 7.4 to 7.5. above.

8. PRECAUTIONARY SUSPENSION OF EMPLOYEE/SPECIAL LEAVE

- 8.1 Suspension or special leave is a precautionary measure that does not constitute a punishment, and will therefore always be with full remuneration.
- 8.2 An employee may be suspended or granted special leave pending the outcome of an investigation and/or a disciplinary inquiry under the following circumstances:
- 8.2.1 when the employee is alleged to have committed a serious offence;
- 8.2.2 where the employee's presence at the workplace could lead to the aggravation of a sensitive situation or disruption of work;
- 8.2.3 the employee's presence at the workplace might jeopardise any investigation mentioned in clause 7 above, or endanger the wellbeing or safety of any person or property; or
- 8.2.4 When there is a possibility that the Employee may interfere with witnesses.

- 8.3 Should the University contemplate suspending an employee, she/he shall be given written notice of such intention and the employee must be afforded the opportunity to make representations as to why she/he should not be suspended in writing.
- 8.4 Management shall make a determination whether there are sufficient reasons to suspend the employee, after considering the employee's representations.
- 8.5 The employee may be suspended any time before or after she/he has been charged with misconduct.
- 8.6 The disciplinary hearing must be convened as soon as reasonably possible
- 8.7 While an employee is on suspension, the following rules may apply:
- 8.7.1 the employee may not enter the premises of the University during her/his period of suspension, unless given a written permission by the office of the Vice-Chancellor and Principal;
- 8.7.2 the employee is not allowed to contact any employees of the University who are directly or indirectly associated with the subject matter, subject to the permission of the University's appointed contact person as per the suspension letter;
- 8.7.3 the employee shall not represent the University in any capacity during suspension;
- 8.7.4 the employee is not allowed to interact with the University's clients, suppliers or any other stakeholders and shall refrain from any discussions or the making of any statements (whether formal or informal) about the University's business, clients or customers, its employees and Council members to any party including third parties associated with the University;

- 8.7.5 the employee is required to be available at all times during normal working hours for the University to contact her/him, if and when necessary;
- 8.7.6 the employee is not allowed to do work for any other employer during the period of suspension, without prior authority from the University; and
- 8.7.7 the failure to comply with a term or condition of suspension may itself constitute misconduct and could be the subject of further disciplinary action.
- 8.8 After conclusion of the investigation, and where evidence is not found to substantiate any disciplinary action, the employee must be so informed and will be required to return to work.
- 8.9 If evidence is found and the University elects to proceed with disciplinary action, the employee will be informed thereof and the suspension will remain in effect until the employee is otherwise informed.
- 8.10 The University, in its sole discretion, may at any time uplift an employee's suspension.

9. **SANCTIONS**

- 9.1 When a Supervisor/Initiator has become aware that any misconduct has been committed, it becomes necessary to take disciplinary action. Part of disciplinary action is to impose a sanction. The basic principles in disciplinary actions other than dismissal are as follows:
- 9.1.1 the University recognises that Schedule 8 of the LRA has endorsed the concept of corrective or progressive discipline. Efforts should be made to correct employee's behaviour through a system of graduated disciplinary measures such as counselling and warnings, when appropriate;

- 9.1.2 formal procedures do not have to be invoked every time a rule is broken or a standard is not met. Informal advice and correction is the best and most effective way for an employer to deal with minor violations of work discipline;
- 9.1.3 certain misconduct may warrant warnings, which themselves may be determined according to degrees of gravity;
- 9.1.4 infringements that are more serious or repeated misconduct may call for a final warning, or other action short of dismissal; and
- 9.1.5 corrective counselling is not recognised as a sanction;

10. **WARNING GUIDELINES**

- 10.1 Where a verbal, written or a final written warning is warranted, it may not be necessary to embark on formal disciplinary hearing procedure.
- 10.2 Certain misconduct will warrant the issuing of written warnings, which will be determined according to the gravity of the misconduct (written warning or final written warning).
- 10.3 Certain misconduct will warrant the issuing of written warnings. All warnings (verbal, written and final written) should only be issued after having followed a fair procedure, and when the employee has been afforded the opportunity to present her/his case in answer to the charges against him or her.
- 10.4 When the Supervisor/Initiator is satisfied that the charged employee has no reasonable and/or justifiable explanation for the misconduct that constitutes a legitimate defence, the employee must be handed a document in the form of Annexure C, D or E, whichever is applicable.
- 10.5 The Supervisor/Initiator must give a copy of the written warning to the employee, who must sign an acknowledgement of receipt for it.

- 10.6 If the employee refuses to sign for receipt, the Supervisor must hand the warning to the employee in the presence of another employee, who will sign as a witness in confirmation that the written warning was handed to the employee. Refusal to receive a letter will be regarded as misconduct.
- 10.7 The warning (whether verbal, written or a final written warning) must at the least state the following:
- 10.7.1 whether the explanation given by the employee was accepted or not;
 - 10.7.2 if the explanation/response was not accepted, the terms of the warning and validity period;
 - 10.7.3 a clear statement of what action is required of the guilty party to rectify the situation;
 - 10.7.4 a clear statement of the consequences of the guilty party's failure to take heed of the requirements of the warning or of repeated offences (of similar or other misconduct);
 - 10.7.5 reducing a verbal warning to writing enables the University to prove that the warning was issued if subsequent disciplinary action proves necessary against an employee;
 - 10.7.6 all warnings and suspensions must be recorded and placed in the employee's file; and
 - 10.7.7 the employee must be informed by the Supervisor/Initiator that she/he has the right to refer a dispute to the CCMA if they are of the view that they were treated unfairly.

11. **VERBAL WARNINGS**

- 11.1 Verbal warnings will be applicable only for minor misconducts, where the

matter is capable of being resolved at the department/faculty level.

- 11.2 Verbal warnings are reminders to employees that if the prohibited conduct continues, a more serious form of disciplinary action and sanction may be contemplated in future.
- 11.3 In cases of minor forms of misconduct that warrants a verbal warning, the Supervisor/Initiator, may issue a verbal warning.
- 11.4 A verbal warning is reduced to writing in the form of **Annexure C** for record purposes and shall be put in the employee's file.
- 11.5 A verbal warning remains valid for a period of three (3) months from the date of issue.

12. **WRITTEN WARNING**

- 12.1 A written warning will be issued if:
 - 12.1.1 a verbal warning has failed to produce the desired result therefore necessitating stricter action;
 - 12.1.2 the offence for which a verbal warning was issued previously has now been repeated;
 - 12.1.3 there have been repeated offences of other less serious misconduct;
 - 12.1.4 there have been repeated offences of other less serious misconduct enough to warrant a sanction stricter than a verbal warning; or
 - 12.1.5 the seriousness of the misconduct warrants a written warning, the Supervisor/Initiator, must issue the employee with a written warning, after a fair process has been followed.
- 12.2 The written warning must follow the form in **Annexure D**.

- 12.3 Written warnings remain valid for a period of six (6) months from the date of issue.

13. **FINAL WRITTEN WARNING**

- 13.1 A final written warning is the last warning an employee can expect before a more serious disciplinary sanction or dismissal is contemplated.
- 13.2 Its purpose is to give employees a final opportunity to correct their behaviour.
- 13.3 Where the seriousness of the misconduct warrants a final written warning, the University must issue the employee with a final written warning.
- 13.4 The final written warning must follow the form in **Annexure E**
- 13.5 A final written warning remains valid for a period of twelve (12) months from the date of issue.

14. **DEMOTION**

- 14.1 A demotion is an alternative sanction to dismissal and is reserved for serious acts of misconduct.
- 14.2 This sanction may be proposed by either the University through its representative or the employee or her/his representative at any stage during the course of the disciplinary hearing, but prior to the disciplinary Chairperson delivering the sanction.

15. **DISMISSAL**

- 15.1 Dismissal as a sanction should be reserved for cases of repeated offences, serious misconduct or when the trust relationship with the University has irretrievably broken down.
- 15.2 If dismissal is contemplated or becomes a possibility due to the seriousness of the misconduct or repetition of less serious misconduct, the employee shall be subjected to a formal disciplinary hearing to give her/him the opportunity to state her/his case.

16. **DISCIPLINARY HEARING**

- 16.1 The purpose of a disciplinary hearing is to establish, firstly, whether an employee is guilty of misconduct or not and, secondly, when found guilty, what sanction is appropriate.
- 16.2 If a disciplinary hearing becomes inevitable, the rules of natural justice as well as rules of fairness must be applied. The essential requirements that must be met in order to reach the minimum standard of a fair hearing are set out below.

17. **NOTIFICATION OF DISCIPLINARY HEARING**

- 17.1 Every employee that is subjected to a disciplinary hearing must be served with a notification of such a hearing as set out in **Annexure E** and notified of her/his rights which are the following:
- 17.1.1 to be represented by a co-employee of his/her choice or by a Union representative or a legal representative of his/her own choice;
- 17.1.2 to present her/his case;
- 17.1.3 to call witnesses to give evidence on her/his behalf to substantiate the case;

- 17.1.4 to cross-examine witnesses called by the University;
- 17.1.5 if necessary, to request the services of an interpreter; and
- 17.1.6 in the event of the employee being found guilty of the alleged misconduct, she/he will be entitled to furnish evidence and to argue in mitigation of sentence.

18. SERVICE OF THE NOTIFICATION

- 18.1 The employee must be handed the written notice as in **Annexure F**, at least fourteen (14) working days before the date of the hearing.
- 18.2 The employee must acknowledge receipt of the notice.
- 18.3 If the employee refuses to acknowledge receipt of the notice, the Safety and Security Officer must hand the notice to the employee in the presence of another Safety and Security Officer who must sign as a witness to confirm that the notice of the hearing was handed to the employee.

19. PARTICIPANTS IN THE DISCIPLINARY HEARING

19.1 University Representative

- 19.1.1 The University may appoint a person referred to as the University Representative to represent the University and to serve the function of the prosecutor and such person may be a lawyer.
- 19.1.2 The University Representative shall bear the duty to commence and bear the burden to prove each allegation in the charge sheet on a balance of probabilities.
- 19.1.3 In discharging these duties, the University Representative shall be entitled to:

- 19.1.3.1 call before the disciplinary hearing any witnesses and produce any books, documents or other evidence to prove the University's case;
- 19.1.3.2 cross-examine any witnesses called to testify on behalf of the employee and to also inspect books, documents or exhibits produced;
- 19.1.3.3 present arguments and submissions based on evidence in support of any facts produced in the hearing; and
- 19.1.3.4 present aggravating factors and suggest an appropriate sanction.

19.2 **Employee (defendant)**

- 19.2.1 The employee will be the person against whom allegations of misconduct in the form of charges are levelled.
- 19.2.2 If the employee decides not to be represented by a co-employee or trade union shop steward at the hearing, the employee may represent herself/himself.
- 19.2.3 The employee shall plead to the charges as set out in the notice to attend a disciplinary hearing.
- 19.2.4 The employee or representative will have the right to cross-examine the witnesses of the University.
- 19.2.5 The employee will have the opportunity to state her/his case.
- 19.2.6 The employee will be allowed to call witnesses and produce documents, books or any relevant information to prove her/his case.

19.2.7 The employee or her/his representative will argue and make submissions in the closing argument.

19.2.8 In the event of being found guilty of any or all charges, the employee will bring mitigating circumstances to the attention of the Chairperson.

19.3 **Chairperson**

19.3.1 It is the prerogative of the University to appoint a Chairperson.

19.3.2 Upon her/his appointment, the Chairperson has a duty to familiarise herself/himself with the contents of this Disciplinary Code.

19.3.3 The Chairperson in discharging her/his duties, is required to exercise due care, proceed diligently and act impartially and without bias. The Chairperson needs to follow the procedures mentioned below –

19.3.3.1 confirm that the employee received **Annexure F** (notice to attend a disciplinary hearing);

19.3.3.2 confirm that the employee's rights in **Annexure F** are understood and complied with;

19.3.3.3 consider and make rulings on any preliminary issues raised by either of the parties;

19.3.3.4 outline the procedure to be followed for the conduct of the enquiry;

19.3.3.5 chair the hearing and ensure that minutes of the proceedings are kept either by herself/himself or by a dedicated recording service;

- 19.3.3.6 ensure that the employee understands the charges against her/him and invite her/him to plead;
- 19.3.3.7 note the plea of the employee, whether guilty or not guilty and if the employee refuses to plead, the Chairperson must note a plea of not guilty;
- 19.3.3.8 may at any time during the proceedings put clarifying questions to the parties or their witnesses on any matter that is relevant;
- 19.3.3.9 after the witnesses have finished their testimony, excuse the witnesses;
- 19.3.3.10 invite the parties to make closing arguments and submissions after all the evidence is presented;
- 19.3.3.11 the Chairperson will make a final and binding ruling on the pronouncement of guilt or innocence;
- 19.3.3.12 provide written reasons within ten (10) working days of the employee's guilt or innocence;
- 19.3.3.13 invite submissions in mitigation or aggravation from both parties before recommending a sanction;
- 19.3.3.14 consider factors in mitigation and aggravation prior to recommending an appropriate sanction;
- 19.3.3.15 the Chairperson will make a recommendation on the sanction to be imposed on the employee. The sanction recommended shall be considered by a person having the requisite authority in terms of the delegation of authority and may be confirmed or substituted by the University;

- 19.3.3.16 in exceptional circumstances where the Vice Chancellor and Principal or his/her delegated authority deems it appropriate to substitute the sanction recommended by the Chairperson, she/he must furnish reasons for deviating and or substituting the recommendations made by the Chairperson of the Disciplinary Committee and inform the affected employee in writing.
- 19.3.3.17 whatever the sanction, the employee must be informed of her/his right to refer a dispute to the CCMA; and
- 19.3.3.18 the Chairperson may entertain an application by either party to present new evidence, provided it is relevant and has only come to the affected party's knowledge after their case was closed.

19.4 **Witnesses**

- 19.4.1 Verbal evidence is the primary form of evidence and therefore it is in the interest of witnesses to testify to the best of their ability at the disciplinary hearing. They do, however, have the right to remain silent.
- 19.4.2 They have the right to testify in the language of their choice and if necessary, through an interpreter.
- 19.4.3 They will be cross-examined on their version.

20. **THE RECORDING/TRANSCRIBING SERVICE**

- 20.1 The proceedings of the hearing will at all times be recorded by means of a recording device or where this is not practical, by means of handwritten notes.
- 20.2 The record of the proceedings shall be kept in safe custody by the

University and upon request of the employee a copy thereof shall be provided to the employee or her/his representative.

21. OUTSOURCING

21.1 The University retains the right to appoint qualified external persons to chair disciplinary hearings subject to approval from the Vice Chancellor if he/she is of the view that such is necessary to yield benefits including but not limited to:

21.1.1 efficiency in dispute resolution;

21.1.2 reduction in risk of non-compliance with the labour laws; or

21.1.3 in cases where a member of Executive Management is the alleged transgressor of a misconduct.

22. IMPLEMENTATION OF THE DECISION

22.1 The Human Resources Department has to make all the necessary arrangements to implement the final decision of the Vice Chancellor or other Delegated Authority having regard to the University's delegation of authority framework.

23. RIGHT OF THE EMPLOYEE TO REFER A DISPUTE TO THE CCMA (OR A BARGAINING COUNCIL WITH JURISDICTION)

23.1 An employee who is not satisfied with the finding or the sanction in any disciplinary action may declare a dispute to the CCMA in terms of the LRA.

23.2 The University must inform the employee of this right in writing.

24. PRE-DISMISSAL ARBITRATION

24.1 As a means to resolving any disciplinary process expeditiously, both the

university and the employee may agree to an alternative dispute resolution. This form of dispute resolution may only be used if the employee consents to it.

- 24.2 The provisions of section 188A of the Labour Relations Act, read together with the provisions of the Arbitration Act, 1965, as amended or replaced, and changes required by the context, shall apply to any pre-dismissal arbitration.

ANNEXURE A**1. GUIDELINES FOR CONDUCTING A DISCIPLINARY HEARING****1.1 Preliminary Issues**

1.1.1 The Chairperson must deal with any preliminary issues which might be raised by either of the parties either prior to commencement of the hearing or during the hearing, which might include the following, but should not be limited to them:

1.1.1.1 should the employee not attend the disciplinary hearing without a reasonable explanation for her/his absence, and the Chairperson is convinced that the employee is wilfully not attending the disciplinary hearing, she/he may proceed with the hearing and finalise it in the absence of the employee;

1.1.1.2 when the employee is in attendance, enquire whether the employee received the notice (**Annexure F**);

1.1.1.3 enquire whether the employee has a representative or not;

1.1.1.4 enquire whether the employee had sufficient time to prepare for the case;

1.1.1.5 entertain requests only for well-motivated and valid postponements;

1.1.1.6 establish whether the parties are ready to start with the proceedings; and

1.1.1.7 entertain any other applications of any relevant kind.

1.2 Step 1

1.2.1 The Plea

1.2.1.1 The Chairperson must enquire of the employee whether she/he understands the charges set out in the notice and/or charge sheet (**Annexure F**), and if so, ask the employee to plead to the charge(s).

1.2.2 Plea of guilty to the charge(s)

1.2.2.1 Should the employee plead guilty to the charge(s), the Chairperson must note the plea and enquire what facts the employee admits. If she/he is satisfied that the employee indeed is guilty, the Chairperson must note a finding of guilty.

1.2.3 Mitigating and aggravating factors

1.2.3.1 After the finding of guilty is noted, the Chairperson must give both the employee and the University's Representative the opportunity to provide mitigating and aggravating circumstances respectively.

1.2.4 Sanction

1.2.4.1 After considering the mitigating and aggravating factors, the Chairperson must recommend an appropriate sanction within three (3) days.

1.2.4.2 When the sanction is confirmed by the Delegated Authority, it must be communicated to the employee.

1.2.5 Plea of not guilty

1.2.5.1 If the employee pleads not guilty, such a plea must be recorded by the Chairperson.

1.3 **Step 2**

1.3.1 **The Evidence**

1.3.1.1 **The University's evidence**

1.3.1.1.1 As the University party bears the burden to prove that the employee is guilty of the charge(s) set out in the notice and/or charge sheet, the University's Representative must call witnesses and produce documentation or any object to prove the case.

1.3.1.1.2 Each of these witnesses may be subjected to cross-examination by the employee or her/his representative.

1.3.1.1.3 After all the witnesses of the University have testified, the case for the University is closed.

1.3.1.2 **The employee's evidence**

1.3.1.2.1 The employee now has the right to testify and state her/his case and call witnesses, produce books, documents or any object to prove her/his case.

1.3.1.2.2 The employee as well as her/his witnesses may be subjected to cross-examination by the University's Representative.

1.3.1.2.3 After the employee has given evidence and called all her/his witnesses, the case for the employee is closed.

1.3.1.3 **Closing arguments**

1.3.1.3.1 The Chairperson must give both parties the

opportunity to present closing arguments on the facts presented only.

1.4 **Step 3**

1.4.1 **The Finding**

1.4.1.1 The Chairperson must make a finding of guilty or not guilty based upon the facts presented only and on a balance of probabilities.

1.4.1.1.1 **Not guilty**

1.4.1.1.1.1 When the Chairperson has considered all the evidence presented during the disciplinary hearing and concludes that the University did not prove its case on a balance of probabilities the employee must be found not guilty.

1.4.1.1.2 **Guilty**

1.4.1.1.2.1 When the Chairperson is convinced by all the evidence presented on a balance of probabilities that the charge(s) against the employee has/have been proven, then the employee must be found guilty.

1.5 **Step 4**

1.5.1 **Mitigating and Aggravating Circumstances**

1.5.1.1 After the employee is found guilty of misconduct, the Chairperson must give the employee or her/his representative the opportunity to present mitigating circumstances.

1.5.1.2 This should include personal information of the employee and any other circumstances that may convince the Chairperson to recommend the appropriate sanction.

1.5.1.3 The University's Representative must be given the opportunity to present aggravating circumstances about the employee to convince the Chairperson on the appropriate sanction to recommend.

1.6 **Step 5**

1.6.1 **The Sanction**

1.6.1.1 After the sanction is confirmed by the University, it must be communicated to the employee.

1.6.1.2 If during the validity period of a warning, the employee is subjected to disciplinary action, warnings may be taken into consideration in deciding an appropriate sanction.

1.6.1.3 Dismissal is a sanction that could take one of two forms, namely, a summary dismissal, which means the employee is dismissed with immediate effect, or a normal dismissal, which means that the employee may be dismissed with the benefit of a payment of an appropriate notice period.

1.6.1.4 Dismissals are the prerogative of and can only be imposed by the Vice Chancellor and Principal. Thereafter the sanction of dismissal is final.

ANNEXURE B**GROUPING AND DEFINITIONS OF MISCONDUCTS****1. POOR TIME KEEPING**

1.1 Employees are obliged to present themselves for duty and do the work the University instructs them to do for the period of time in a day/week/month as the case may be as stipulated by the University. If this rule is contravened it brings about, *inter alia*, the following misconducts:

1.1.1 absence from workstation without reasonable cause;

1.1.2 loafing (passing time idly or failing without reasonable cause to complete tasks set); and

1.1.3 reporting late for duty or leaving the workplace before closing time without leave from the employee's superior.

2. ABSENTEEISM

2.1 Includes but is not limited to absence from work by the employee without permission for reasons other than proven ill health or situations beyond the employee's control. When the reason for being absent is due to ill health that is not confirmed by a medical practitioner, an investigation must be done to establish whether the sick leave policy is not being abused. This form of misconduct occurs, *inter alia*, under the following circumstances:

2.1.1 absent without leave for less than five (5) working days; and

2.1.2 absconding / desertion — unauthorised absence for five (5) consecutive working days or more.

3. ABUSE OF SICK LEAVE

- 3.1 Failure to notify the University of reasons for absence.

4. UNSATISFACTORY WORK PERFORMANCE

- 4.1 Means the employee normally capable of doing the work is not performing her/his work to the satisfaction of the University's standard without a good and valid reason. This form of misconduct occurs, *inter alia*, under the following circumstances:

- 4.1.1 dereliction of duty; and
- 4.1.2 failure to exercise proper care in performing work leading to the work having to be redone or which results in damage of the University's property or resources.

5. NEGLIGENCE

- 5.1 Includes but is not limited to failure by an employee to take reasonable care in performing her/his duties. This may be due to a minor mistake or being grossly negligent. The degree of negligence will be determined by the facts. Gross negligence could result in dismissal as an appropriate sanction. This form of misconduct occurs, *inter alia*, under the following circumstances:

- 5.1.1 negligence in handling of work tools or assets;
- 5.1.2 negligent or reckless driving of University 's vehicles;
- 5.1.3 negligent damage to property (including assets and materials); and
- 5.1.4 negligence in performance of the employee's duties.

6. GROSS NEGLIGENCE

- 6.1 In the performance of the employee's duties (including the failure of properly maintaining and/or caring for assets that led to loss or damage to University assets where theft cannot not be proved).

7. UNACCEPTABLE BEHAVIOUR

- 7.1 Means behaviour that is unacceptable to society as a whole or prohibited by a policy of the University and/or an Act of Parliament or a Regulation associated with any such Act. This form of misconduct occurs, *inter alia*, under the following circumstances:

- 7.1.1 direct or indirect discrimination — (this includes but is not limited to discrimination on the grounds of race, gender, sex, pregnancy, marital status, family responsibility, ethnic or social origin, colour, sexual orientation, age, disability, religion, HIV status, conscience, belief, political opinion, culture, language, birth);
- 7.1.2 behaviour that brings the University or its associates into disrepute as stipulated in the University Code of Conduct;
- 7.1.3 failure to observe the University's Dress Code — see code for actions specifically prohibited;
- 7.1.4 excessive use of University's telephones for own personal use;
- 7.1.5 immoral or indecent behaviour on the University premises;
- 7.1.6 lending of money to fellow employees or other persons for gain;
- 7.1.7 engaging in any unauthorised game of chance on the premises of the University;
- 7.1.8 refusal to adhere to the terms and conditions of the suspension

letter;

- 7.1.9 placing unauthorised documents on the notice boards or distributing such documents;
- 7.1.10 unauthorised removal of notices, signs or any form of writing from bulletin or notice boards;
- 7.1.11 refusing to submit to a search of person, clothing, vehicle and/or any other article in a person's possession, when requested by the security personnel or any other person in authority to do so;
- 7.1.12 driving a University vehicle without authority;
- 7.1.13 failure to observe the University's Occupational Health and Safety and Environmental regulations;
- 7.1.14 driving under the influence of intoxication using controlled substances whilst on duty as prescribed by law;
- 7.1.15 failure by an employee to report his or her own communicable disease to his/her superior. Employees are encouraged to disclose their health status;
- 7.1.16 undue influence or pressure to the Chairperson of the disciplinary enquiry;
- 7.1.17 sleeping on duty and adversely affecting your performance;
- 7.1.18 commission of act(s) that undermines the financial management and internal control systems of the University;
- 7.1.19 failure to observe the Asset Management Policy;
- 7.1.20 spreading of malicious and false information in any manner that may

be detrimental to the University, any employee or any person associated with the University;

- 7.1.21 failure to report misconduct;
- 7.1.22 victimisation — (any act or behaviour that is aimed at pressurising, persecuting, oppressing or disadvantaging a fellow employee to do his/her duties in a free and peaceful environment);
- 7.1.23 conflict of interest — (acting in direct competition with the University or a failure to advance the business of the University) as described in the Code of Ethics;
- 7.1.24 any other misconduct constituting a breach of contract under the common law or any other legal provisions such as the University statute, Code of Conduct, Conditions of Service and all University policies;
- 7.1.25 misuse or unauthorised removal of University's confidential information/material and/or assets;
- 7.1.26 failure to adhere to the Computer Internet and e-mail Usage Policy and unauthorised distribution of unlicensed software;
- 7.1.27 smoking in prohibited areas;
- 7.1.28 refusal to pay a traffic fine(s) for a traffic violation whilst in possession or control of a University owned vehicle or vehicle rented by the University;
- 7.1.29 distributing, being in possession of and/or creating or downloading of pornographic material of any kind;
- 7.1.30 unauthorised distribution of licensed or unlicensed software; and

7.1.31 sharing of copyrighted or other legally protected material.

8. **DISHONEST CONDUCT**

8.1 Includes but is not limited to any conduct that has an element of dishonesty or misrepresentation of facts in it and due to the nature of the misconduct and the facts by itself, which renders the trust relationship between the University and the employee irreparable. This form of misconduct occurs, *inter alia*, under the following circumstances:

8.1.1 bribery or attempted bribery — (giving or receiving any bribe of any nature to induce another to perform an illegal act or any misconduct);

8.1.2 contravention of the University's Code of Conduct;

8.1.3 contravention of Conflict of Interest and Confidentiality Declaration;

8.1.4 divulgence of the University confidential information;

8.1.5 unauthorised use of another employee's password or access-card of any nature whatsoever;

8.1.6 conflict of Interest and Confidentiality Declaration; and

8.1.7 conducting private business during normal working hours.

9. **CORRUPTION**

9.1 Includes but is not limited to when an employee directly or indirectly accepts or agrees or offers to accept any gratification from any other person, for her/his own benefit or for the benefit of another person; or gives or agrees or offers to give to any other person any gratification, whether for the benefit of that other person or for the benefit of another person, in order to act, personally or by influencing another person to act, in a manner that

amounts to the illegal, dishonest unauthorised, incomplete, or biased; or misuse or selling of information or material acquired in the course of the, exercise, carrying out or performance of any powers, duties or functions arising out of a constitutional, statutory, contractual or any other legal obligation; that amounts to the abuse of a position of authority; a breach of trust; or the violation of a legal duty or a set of rules, designed to achieve an unjustified result; or that amounts to any other unauthorised or improper inducement to do or not do anything.

10. **FRAUD OR ATTEMPTED FRAUD**

10.1 Any intentional and unlawful misrepresentation by an employee of any act with the intention to defraud, that causes damage or potential damage to the University or any of its employees or students.

11. **DISHONESTY**

11.1 Any act of lying, being deceitful, cheating, trickery and/or treacherous behaviour and/or any attempt to do so.

12. **MONEY LAUNDERING**

12.1 When payment is received by the University with money that comes from or is suspected to come from the proceeds of criminal activities.

13. **THEFT**

13.1 The intentional and unlawful possession and/or removal of the property of the University or any other person in order to deprive that other person of goods or any attempt to do so.

14. **MISAPPROPRIATION OF UNIVERSITY FUNDS AND OR PROPERTY**

14.1 Incorrect application of University funds, assets or property for personal gain or any other improper purpose.

15. FALSIFICATION

15.1 Includes the changing of documents or creating a false version of a document, including but not limited to claim forms, records, identity documents, certificates, whether in hard copy or soft copy to give untrue, erroneous or misleading information.

15.2 Divulging any confidential or private personal information of the University or its employees without the necessary authorisation.

16. DISORDERLY CONDUCT

16.1 Means conduct that causes disorder and/or mayhem in the workplace and may include psychological or physical harm to another employee or student of the University.

17. THREATENING BEHAVIOUR

17.1 Includes a threat to assault; use of insulting, abusive, discriminatory or foul language.

18. INSUBORDINATION

18.1 Any form of unwillingness or refusal by way of attitude, words and/or deeds to obey and/or accept and/or execute a lawful and reasonable instruction and/or request from any person in authority; or any behaviour that poses a serious challenge to authority.

19. INSOLENCENCE

19.1 Any behaviour that pertains to impudence, cheekiness, disrespect or rudeness towards a person in authority. Persons in authority should reciprocate respect to junior staff members.

20. ASSAULT

20.1 Threat of or actual physical harm done to a person.

21. SEXUAL HARASSMENT

21.1 Is an unwarranted sexual advance as prescribed in the Code of Good Practice on Sexual harassment and the University Policy.

21.2 Intimidation or provocation to violence.

22. FAILURE TO ADHERE TO THE ALCOHOL AND/OR DRUG ABUSE POLICY

22.1 See Policy for actions specifically prohibited as developed and amended from time to time.

23. PARTICIPATION IN AN UNPROTECTED STRIKE

23.1 This includes any form of industrial action that is unprotected, including but not limited to strikes, picketing, secondary strikes, go-slows or any other protest action.

24. SABOTAGE

24.1 Any act or threat by an employee to interfere with the normal operations of the University.

25. MALICIOUS AND/OR WILFUL DAMAGE TO PROPERTY OR ASSETS

25.1 This includes the property or assets of the University, co-employees and/or any other person that is on the premises of the University.

26. HOSTAGE-TAKING

26.1 Any conduct that restricts the freedom of movement of choice of another or manipulating behaviour that places another person in a threatening position

until a specific demand is met.

27. **DURESS**

27.1 Any act or threat to harm another person or their property or family to entice them to do something that is illegal or to refrain from doing something that is legal, or to participate in a strike, the latter being protected or unprotected.

28. This Disciplinary Code of Staff Members should be read in conjunction with the relevant university Statute, Code of Conduct, University Policies and rules of the University of Venda Provident Fund as well as Group Life Scheme as Approved by Council and the Labour Relations Act.

ANNEXURE C

VERBAL WARNING

SURNAME _____ **INITIALS:** _____ **EMPLOYEE**
: _____ **NO:** _____

POSITION: _____
BUSINESS
UNIT: _____

This letter records that a verbal warning has been issued to you.

CATEGORY OF ALLEGED
MISCONDUCT: _____

DATE OF ALLEGED MISCONDUCT: _____

ALLEGED MISCONDUCT: _____

EMPLOYEE'S
STATEMENT: _____

Is the employee's explanation accepted or
not? _____

This discussion constituted a verbal warning for the above misconduct /behavior.

Behaviour required / action necessary from employee in the future to avoid further disciplinary action:

Consequences if behavior/misconduct persists:

Verbal warning expiry date: _____

Note:

Should you fail to comply with the above or commit a further offence/misconduct, further disciplinary action may be taken.

Signature of Manager: _____ Date: _____

Signature of Employee: _____ Date: _____

Note:

Alternatively, signed by a witness as having been given to the stated employee should the staff member refuse to sign this notice.

Witness: _____ Date: _____

ANNEXURE D

WRITTEN WARNING

SURNAME _____ **INITIALS:** _____ **EMPLOYEE**
: _____ **NO:** _____

POSITION: _____
BUSINESS _____
UNIT: _____

This letter may serve as a written warning that you have breached the Disciplinary Code of the University.

CATEGORY OF ALLEGED MISCONDUCT: _____

DATE OF ALLEGED MISCONDUCT: _____

ALLEGED MISCONDUCT: _____

EMPLOYEE'S STATEMENT: _____

Is the employee's explanation accepted or not? _____

This document serves as a written warning

Verbal warning expiry date: _____

Action necessary from employee in the future to avoid further disciplinary action:

Note:

Should you fail to comply with the above or commit a further offence/misconduct, further disciplinary action may be taken.

Signature of Manager: _____ Date: _____

Signature of Employee: _____ Date: _____

Note:

Alternatively, signed by a witness as having been given to the stated employee should the staff member refuse to sign this notice.

Witness: _____ Date: _____

ANNEXURE E

FINAL WRITTEN WARNING

SURNAME _____ **INITIALS:** _____ **EMPLOYEE NO:** _____

POSITION: _____
BUSINESS UNIT: _____

This letter may serve as a final written warning that you have breached the Disciplinary Code of the University.

CATEGORY OF ALLEGED MISCONDUCT: _____

DATE OF ALLEGED MISCONDUCT: _____

ALLEGED MISCONDUCT: _____

EMPLOYEE'S STATEMENT: _____

Is the employee's explanation accepted or not? _____

This document serves as a final written warning

Final warning expiry date: _____

Action necessary from employee in the future to avoid further disciplinary action:

Note:

Should you again commit a serious breach of the Disciplinary Code within the next 12 months, the Group Executive shall have no option but to invoke a disciplinary hearing pending your dismissal. The Group Executive regrets that this action was necessary and trusts that your future conduct will ensure that no further disciplinary action is required.

Signature of Manager: _____ Date: _____

Signature of Employee: _____ Date: _____

Note:

Alternatively, signed by a witness as having been given to the stated employee should the staff member refuse to sign this notice.

Witness: _____ Date: _____

ANNEXURE F

NOTICE TO ATTEND A DISCIPLINARY HEARING

SURNAME _____ **INITIALS:** _____ **EMPLOYEE**
: _____ **NO:** _____

POSITION: _____
BUSINESS
UNIT: _____

You are hereby instructed to attend a disciplinary hearing into the allegation(s) of misconduct as detailed in this letter. You are reminded of the general principle identified in the Disciplinary Code and Procedure of the University that any staff member of the University shall be presumed innocent until proven guilty on a balance of probabilities.

Details pertaining to the hearing are detailed below:

DATE OF DISCIPLINARY
HEARING: _____

TIME OF DISCIPLINARY
HEARING: _____

PLACE OF
HEARING: _____

PRESIDING OFFICER OF DISCIPLINARY
HEARING: _____

CATEGORY OF ALLEGED
MISCONDUCT: _____

DATE OF THE ALLEGED
MISCONDUCT: _____

ALLEGED
MISCONDUCT: _____

Employee's rights:

Please take note that you have the following rights in terms of the LRA:

- To be represented by a fellow employee of your choice or by a Union representative.
- Right to respond within fourteen (14) days
- Right to request further particulars
- Right to inspect any document produced in evidence.
- Right to prepare adequately

- To present your case.
- To call witnesses to give evidence on your behalf to substantiate your case.
- To cross-examine witnesses called by the University.
- If necessary, request the services of an interpreter (please indicate at least four(4) working days before the disciplinary enquiry is to be held).
- In the event of your being found guilty of the alleged misconduct, you will be entitled to furnish evidence and to argue in mitigation of disciplinary sanction.

Note:

Should you refuse or fail to appear at the disciplinary hearing without good reasons, the hearing may be held and a sanction may be imposed in your absence.

Signature of
Manager: _____ Date: _____

Signature of Group
Executive Manager: _____ Date: _____

* I, _____ (name) acknowledge receipt of this notice

at _____ (place) at
_____ (time).

Signature of _____ Date: _____

Employee: _____

Note:

Should the staff member refuse to sign this notice a witness must verify that the notice was issued by signing below:

* I, _____ (name of witness) hereby declare that this

notification to attend a disciplinary hearing was given to

(name of employee) in my presence at _____
(place) at

_____ (time).

Witness: _____ Date: _____

ANNEXURE G

DISCIPLINARY HEARING DECISION AND SANCTION

SURNAME _____ **INITIALS:** _____ **EMPLOYEE NO:** _____

POSITION: _____

BUSINESS UNIT: _____

DATE(S) OF DISCIPLINARY HEARING: _____

PRESIDING OFFICER AT THE DISCIPLINARY HEARING: _____

CATEGORY OF ALLEGED MISCONDUCT: _____

DATE OF THE ALLEGED MISCONDUCT: _____

ALLEGED MISCONDUCT: _____

Outcome of the disciplinary hearing (relevant outcome is marked with a cross)

GUILTY	NOT GUILTY
---------------	-------------------

MITIGATING FACTORS: _____

AGGRAVATING FACTORS: _____

RECOMMENDED _____

SANCTION: _____

REASON FOR SANCTION: _____

SIGNATURE OF EXECUTIVE MANAGER _____

DATE: _____

SIGNATURE OF DELEGATED AUTHORITY: _____

DATE: _____